

(2) The entire costs of Dr. Virdell Munsey were resisted and should have been dissolved for the reason that he merely testified as to a taste test which he gave panelists, such testing not being the work of a specialist and being so subjective as to be of no value.

(3) The costs of Loy Barber and Mary Dolan were resisted for the reason that the record showed that the claimant stipulated and was willing to stipulate to all things necessary to establish that the product tested by Dr. Virdell Munsey and Mr. Bernard F. Surkiewicz was the identical product which the claimant shipped in interstate commerce and was seized by a United States marshal in Texas, as a consequence of which the testimony of such persons was unnecessary to the proving the Government's case.

On 3-7-63, after the arguments of counsel were heard, the court approved the Government's bill of costs. On 2-26-63, a decree of condemnation was filed which authorized the release of the article under bond for relabeling, conditioned upon execution of the bond within 20 days. On 5-23-63, the article was destroyed, in accordance with terms of the decree.

**29193. Canned watercress soup and canned cucumber soup. (F.D.C. No. 48807. S. Nos. 41-843/4 V.)**

**QUANTITY:** 14 cases, each containing 12 13-oz. cans of watercress soup, and 15 cases, each containing 12 13-oz. cans of cucumber soup, at New York, N.Y., in possession of California Preserves, Inc.

**SHIPPED:** Between 6-2-62 and 12-29-62, from Lake Wales, Fla.

**LABEL IN PART:** (Can) "Cal Pre Brand Deluxe Watercress Princess Soup [or "Cucumber Royale Soup"] Ingredients: \* \* \* California Preserves, Inc. New York City Distributors."

**RESULTS OF INVESTIGATION:** Examination showed that the articles contained undeclared artificial colors, namely, FD&C Green No. 2 and FD&C Yellow No. 5 in the watercress soup, and FD&C Green No. 2 in the cucumber soup. Investigation disclosed that these cans had been relabeled by the dealer.

**LIBELED:** 3-20-63, S. Dist. N.Y.

**CHARGE:** 402(b)(4)—while held for sale, artificial colors had been added to the articles or mixed or packed therewith so as to make them appear better or of greater value than they were; and 403(k)—the articles contained artificial coloring and they failed to bear labels stating that fact.

**DISPOSITION:** 4-23-63. Default—destruction.

**29194. Corn husks. (F.D.C. No. 49017. S. Nos. 31-921/22 X.)**

**QUANTITY:** 36 bales, each containing 60 lbs., at San Ysidro, Calif.

**SHIPPED:** 5-10-63, from Tijuana, Mexico, by Humberto Serrano.

**LABEL IN PART:** (Bale) "Santa Maria Brand Corn Husks \* \* \* Prod. of Mexico Santa Maria, B.C."

**LIBELED:** 6-27-63, S. Dist. Calif.

**CHARGE:** 402(a)(3)—contained insects, insect larvae, insect fragments, insect excreta, and insect-damaged corn husks, when shipped.

**DISPOSITION:** 7-31-63. Default—destruction.

**29195. Corn husks. (F.D.C. No. 48372. S. Nos. 63-880 V. 63-883/4 V.)**

**QUANTITY:** 79 72-lb. bales, 176 unlabeled 50-lb. bales, and 63 cases, each containing 12 12-oz. bags, at Los Angeles, Calif.

SHIPPED: Between 1-24-63 and 2-14-63, from Tijuana, Mexico, by Serrano Bros., and from Ensenada, Mexico, by Y. Torres.

LABEL IN PART: (Bale) "Santa Maria Brand Corn Husks \* \* \* Prod. of Mexico Santa Maria, B.C." and (case) "Mojave Brand Packed by Villmer Packing Co. Los Angeles, Calif. \* \* \* #1 Grade Corn Husks For Tamales."

RESULTS OF INVESTIGATION: The articles in the cases had been repacked by the dealer.

LIBELED: 4-3-63, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect pupae, and insect-damaged corn husks when shipped and while held for sale.

DISPOSITION: 4-25-63. Default—destruction.

29196. Egg dye. (F.D.C. No. 48825. S. No. 14-218 V.)

QUANTITY: 15,000 pkgs., at Chicago, Ill., in possession of Athenian Candle Co.

SHIPPED: 4-9-62, from Buffalo, N.Y.

LABEL IN PART: (Pkg.) "Red Coloring For Eggs Directions For Coloring \* \* \* sold by Athenian Candle Company \* \* \* Chicago 6, Ill." (All except dealer's name, address, and telephone number was written in the Greek language.)

RESULTS OF INVESTIGATION: The main ingredient consisting of a red dye was shipped as reported above to Chicago, Ill., where it was manufactured in final form, and delivered in bulk drums to the dealer who repackaged and labeled the article as described above.

LIBELED: 3-26-63, N. Dist. Ill.

CHARGE: 402(c)—while held for sale, the article was a color additive which was unsafe within the meaning of 706(a) since it and its intended use were not in conformity with a regulation or exemption in effect.

DISPOSITION: 4-18-63. Default—destruction.

29197. Lobster newburg dinner. (F.D.C. No. 48630. S. No. 7-535 V.)

QUANTITY: 24 cases, each containing 12 11-oz. pkgs., at Watertown, Mass.

SHIPPED: 12-4-62, from Portland, Maine, by Downeaster Div., Jacob Associates, Inc.

LABEL IN PART: (Pkg.) "Downeaster Maine Lobster Newburg Dinner Ingredients: Lobster Meat \* \* \* Shellfish \* \* \* Certified Color \* \* \* Distributed by Jacob Associates, Inc., West Chester, Pa."

RESULTS OF INVESTIGATION: Examination showed the article to be a precooked plate dinner consisting of peas, potatoes, and an artificial pink-colored sauce containing pieces of shellfish. Analysis showed the shellfish was composed of lobster and approximately 11½ percent of a seafood ingredient other than lobster. Factory inspection of the manufacturer, Downeaster Div., Jacob Associates, Inc., showed that the seafood ingredients of the article were lobster and scallops.

LIBELED: 2-11-63, Dist. Mass.

CHARGE: 402(b)(2)—when shipped, scallops had been substituted in whole or in part for lobster; 402(b)(4)—scallops and artificial pink color were added to the article, or mixed or packed therewith so as to increase its bulk and make it appear better or of greater value than it was; and 403(a)—the name "Maine Lobster Newburg Dinner" and the label vignette depicting lobsters and pieces of lobster in a pink-colored sauce, were false and misleading.

DISPOSITION: 4-15-63. Default—delivered to a charitable institution.